

between suppliers that defines in significant part a genuinely competitive market and the reasonable availability of alternative services.

**SECTION 271 REQUIREMENTS OF FULL IMPLEMENTATION AND  
NONDISCRIMINATION**

10) Scattered throughout Section 271 of the Act are references to Section 251 and Ameritech's responsibilities found therein. These references suggest, for example, that Ameritech has complied with a checklist item only if it has fully implemented the item in "accordance with the requirements of sections 251 (c) (2) and 252 (d) (1)."<sup>1</sup> One of the major requirements of Sections 251, 252, and 271 of the Act, and an area which the FCC spent a large amount of time discussing and delineating in its *First Report and Order*, is Ameritech's responsibility to provide a number of the checklist items in a "nondiscriminatory" manner. To stress the importance of this obligation, the FCC went so far as to redefine its historical interpretation of the term "nondiscriminatory" as follows:

Therefore, we reject for purposes of section 251, our historical interpretation of "nondiscriminatory," which we interpreted to mean a comparison between what the incumbent LEC provided other parties in a regulated monopoly environment. We believe that the term "nondiscriminatory," as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties as well as itself. In any event, by providing interconnection to a competitor in a manner less efficient than an incumbent

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<sup>1</sup> Section 271 (c)(2)(B)(i)

LEC provides to itself, the incumbent LEC violates the duty to be "just" and "reasonable under section 251 (c) (2) (D).

- 11) Given that the FCC has defined its use of the term nondiscriminatory to include comparisons between not only services provided to third parties, but also to services provided to the incumbent LEC and its own retail operations, it seems highly unlikely that a meaningful measure of Ameritech's full compliance with the competitive checklist can be made until the checklist items have been fully implemented, tested in the marketplace (not merely "offered"), and time has passed, providing stakeholders with real world experience (not merely to have signed an agreement that provides "access").
- 12) Unfortunately, the only way to assess full compliance and the nondiscriminatory or discriminatory nature of Ameritech's offerings is to measure their effect in the marketplace. We will be able to accurately measure the nondiscriminatory provision of Ameritech's essential inputs to its competitors only by measuring the market's willingness to demand the goods of non-Ameritech services which utilize Ameritech services/elements. If competitors as a whole are unable to provide comparable and substitutable retail goods by relying upon Ameritech's inputs and accompanying processes, serious questions should be raised regarding whether Ameritech has fully implemented the checklist, as well as to the nondiscriminatory nature of Ameritech's offerings.

13) Ameritech's compliance with its nondiscriminatory requirements of the checklist cannot be measured by the articulation of its stated intentions in an interconnection agreement. They can be measured only by their influence on the marketplace and ultimately by the buying decisions of consumers. Without a showing by consumers that they view the retail services of competitors as a whole (when those competitors rely upon Ameritech services/elements) to be reasonably available and effectively substitutable to the services of Ameritech's own retail unit, Ameritech's compliance with its obligations under the checklist remains an open question.

14) Given Ameritech's own recognition that its only incentive to open its local market to competition is the chance to enter long distance markets, it is critical that regulators be extremely vigilant in assessing Ameritech's performance with respect to checklist compliance.<sup>2</sup>

15) Retail customers will have choices in the marketplace between highly substitutable goods (if in fact Ameritech meets its statutory obligations), or inferior goods (if Ameritech chooses to discriminate against its competitors in comparison with the services it provides its own retail operations). For this reason, Ameritech's performance in meeting the checklist and this nondiscriminatory mandate is best measured by an examination of the level of effective competition that resides in the

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<sup>2</sup> See Appendix O, *Holding The Line On Local Phone Rivalry*, The Washington Post, Wednesday, October 23, 1996, pp.C-12;C-14.

marketplace and the ease and convenience by which customers exercise choices between competing local exchange providers. Only if carriers can, with their best efforts, make substitutable services available to customers as proven by the growth and health of competition, can we be assured of checklist compliance and the nondiscriminatory nature of Ameritech's terms, conditions and provisions.

- 16) My contention is not that Ameritech should be responsible for the success of its competitors, it is simply that the Commission can gain the most direct insight into Ameritech's compliance with the checklist only by viewing Ameritech's offerings when fully implemented, and as used successfully by competitors to provide competing services. If competing carriers as a whole are unable to sufficiently penetrate Ameritech's local markets based upon the offerings of Ameritech, then one of two circumstances likely exists: either (1) the terms and conditions imposed by Congress are insufficient to foster a competitive local service market, or (2) the way in which Ameritech has implemented those terms and conditions is hindering the entry or sustainability of its competitors. My own opinion is that Congress' mandate requiring Ameritech to provide its services in compliance with the checklist and in a nondiscriminatory manner, negates the possibility that the first criteria could be responsible for anemic competitive growth. This leaves us to consider only the second, and far more likely criteria; that Ameritech has failed to fully implement the checklist and to meet its nondiscriminatory obligations.

**THE STATUS OF COMPETITION IN THE MICHIGAN LOCAL  
EXCHANGE MARKET**

17) The burden is on Ameritech in this docket to offer proof that the local exchange marketplace is competitive. To date, Ameritech has offered little -- through either its actions or its submissions in this docket -- to demonstrate its commitment to allowing local competition to emerge in Michigan. If anything, the data available to date demonstrates that local competition is de minimis. Of the close to 5 million access lines in the Ameritech Michigan service territory, only 20,000 -- or approximately 0.40% -- are being served by a local exchange provider other than Ameritech.<sup>3</sup> In addition to their minute size, these carriers are also extremely limited in geographic scope and the market segments that they serve. For the most part, with the exception of Brooks, which is serving those residential customers that happen to lie in close proximity to its facilities, the new entrants in Michigan are restricting their operations to business users. These facts lie in stark contrast to Ameritech's boasts of the "rapid entry of new providers into the local exchange marketplace" and its blanket assertion that "competitors are moving ahead rapidly in Michigan."<sup>4</sup> Moreover, Ameritech's broad assurances that Michigan's future will be rife with local competition do nothing

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<sup>3</sup> See Appendix A for a graphic representation of the extent to which competition has penetrated the Ameritech Michigan marketplace. (Source: November 12, 1996 Ameritech Submission of Information at pp. 12-16).

<sup>4</sup> Ameritech's November 12, 1996 Submission, Introduction, pp. 2 and 5]

**MPSC CASE NO. U-11104**  
**AFFIDAVIT OF MICHAEL STARKEY**

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to alter the basic facts: at present, only a fraction of 1% of Michigan's residential subscribers are being served by a competitive service provider.<sup>5</sup>

18) Contrary to the representations of Ameritech, there is currently no effective facilities-based local competition in Michigan.<sup>6</sup> Of the 5,458,112 total Tier-1 LEC switched access lines in the State of Michigan, Ameritech serves 4,785,915 (or 87.68%)<sup>7</sup>, employing 442 switches. By contrast, there are currently only four CLEC end office switches that are operational in Michigan: a Brooks Fiber switch in Grand Rapids and an MCI Metro switch, a TCG switch and an MFS switch in Detroit<sup>8</sup>. And although CLEC presence in the Ameritech Michigan territory has increased to a limited degree over the last year, total CLEC presence is dwarfed by Ameritech's continuing dominance of the local market. For example, out of a total of close to 5 million Ameritech Michigan access lines, CLECs have purchased a mere 11,774 unbundled loops and are only serving approximately 20,000 business and residential access lines combined. CLECs are therefore serving only 0.4% of Ameritech's total access lines in Michigan<sup>9</sup>.

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<sup>5</sup> See "Appendix A1 Competition for Residential Customers in Ameritech-MI Service Territory."

<sup>6</sup> See Appendix B, chart entitled "Absence of Local Competition in Ameritech Territory --Michigan"

<sup>7</sup> In its first Informational Filing in this docket in response to Attachment A, Ameritech has claimed that the number of access lines has actually increased to 4,972,505. These numbers are therefore subject to verification.

<sup>8</sup> See Appendix C, map showing the location of CLEC switches in Michigan.

<sup>9</sup> See Appendix D, "Growth of CLEC Presence in Ameritech-MI Territory -- December 1995 to September 1996."

19) Ameritech has taken pains to provide data which, when standing alone, might be perceived as indicative of a growing competitive market. If viewed in terms of a static market environment, the data might be found to be impressive. However, given the expansive rate of growth in the overall market, the data supplied by Ameritech become insubstantial. Market research shows that the overall market in the local exchange, as measured by growth in numbers of access lines for residential and business customers, is growing at a significant rate. For example, Merrill Lynch reported in the second quarter of 1996 that Ameritech access lines were growing at an impressive 4.5% overall, and that business access lines were growing at a rate of 7.2%.<sup>10</sup> When viewed in the context of this data, the numbers supplied by Ameritech to substantiate their claims of market penetration by new entrants are inconsequential in terms of the ability of new entrants to capture significant shares of the market and exert any level of discipline on the incumbent monopoly. It also raises serious questions as to the viability of the OSS processes and systems that Ameritech claims are operational and allowing these new entrants to process customer orders of any magnitude.

20) Even in the LATAs with the greatest competitive activity -- Grand Rapids and Detroit -- competitive providers have a presence that is barely visible. Brooks Fiber, the only CLEC operating in the Grand Rapids LATA, serves only 1.1% of the available access

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<sup>10</sup> See Appendix E, Merrill Lynch analysis of Ameritech performance, *Telecom Services-RBOC's & GTE*, February 23, 1996, at p. 20.

lines in that LATA. The number is even smaller in the Detroit LATA, where MCI Metro, MFS and TCG provide service to only 0.22% of the total available access lines.<sup>11</sup>

- 21) Moreover, a number of the systems that Ameritech requires to meet its checklist mandate, including, for example, electronic real time interfaces for resale, pre-ordering and provisioning, and the establishment of guidelines for nondiscriminatory access to its poles, ducts, conduits and rights-of-way are either not yet available in a reliable manner or have only recently been provided. For example, in a December 30, 1996 letter to the Anti-Trust Division of the United States Department of Justice, Brooks Fiber expressed its dissatisfaction with the operation of the electronic interfaces that it uses to order and provision services purchased from Ameritech. Brooks cited the complexity involved in structuring a cooperative relationship with a direct competitor that is a monopoly, and pointed out that at present there are no reliable electronic means of interfacing with Ameritech's loop order system, and there is no electronic means of transmitting orders for number portability, or for billing.<sup>12</sup>
- 22) Hence, not only has the market been unable to fully test the availability of these processes, but competitors and regulators have not yet been in a position to give some of them even a cursory review. For this reason, any decisions made today with

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<sup>11</sup> See Appendices F and G; pie charts of CLEC Presence in the Grand Rapids and Detroit LATAs.

<sup>12</sup> See Appendix H, December 30, 1996 letter from Martin W. Clift, Jr., Director of Regulatory Affairs, Brooks Fiber Communications, to Katherine Brown of the U.S. Department of Justice, Anti-Trust Division. Telecommunications Task Force.



respect to Ameritech checklist compliance as required by Section 271 of the Act, is premature. Such a decision would necessarily be based only upon contract language and Ameritech's stated intentions, not upon the actual performance of Ameritech.

Such a basis is clearly insufficient.

- 23) Moreover, contrary to Ameritech's assertions in this docket, there are not "literally hundreds of providers" offering local exchange services in Michigan. To be precise, there are only four -- Brooks Fiber, MCI Metro, MFS and TCG -- and they are offering service over only four end office switches (as compared to the 442 switches currently employed by Ameritech Michigan).<sup>13</sup>

**THE NEED FOR ROBUST AND RELIABLE INFORMATION**

- 24) The information supplied by Ameritech as to the current level of competition in the marketplace does not provide the Commission with the kind of information that it needs to measure Ameritech's performance with respect to its nondiscriminatory provision of services, functionalities or elements, and its compliance with checklist requirements.<sup>14</sup>

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<sup>13</sup> Compare Appendices I & J, and K & L, which graphically demonstrate the disparity in switch capacity between Ameritech and those CLECs with switches in the Detroit and Grand Rapids LATAs in Michigan.

<sup>14</sup> Recent conduct by Ameritech also belies any claims of competition on a meaningful level in Michigan. For example, on April 17, 1996 Ameritech filed with the FCC to deaverage by state its Carrier Common Line Charges ("CCLC"). In its description and justification for this filing, Ameritech stated: "In the Ameritech region, Illinois is currently facing the most [local exchange] competition, yet the regional CCL rates in Illinois subsidize the considerably higher common line "costs" attributable to Ameritech's other four states." Ameritech's proposed deaveraged CCLC figure for Michigan is the highest in the region, and is indicative of the lack of competition in this State.

25) Ameritech's assertions that it does not possess information regarding the construction of new telecommunications facilities in Michigan is disingenuous. While Ameritech may not have access to all market detail regarding CLEC operations and business plans in Michigan, in its position as incumbent monopoly local exchange carrier, it does have access to significant amounts of data concerning CLEC operations. In addition, the competitive relationships shown by the Ameritech Michigan data are of very recent vintage, are de minimis and are not conclusive of an assured and effective competitive structure for this market for the longer term.

26) In terms of plans to build out facilities in Michigan, it is my understanding that AT&T has not yet finalized its plans for the construction of new facilities in any Michigan LATA due to the uncertainty of interconnection arrangements with Ameritech. As noted above, the Commission's final interconnection order was issued only recently, and the details of implementation have not yet begun to be finalized. The problematic nature of implementing a complex interconnection agreement with a direct competitor such as Ameritech is evidenced by Brook's experiences referenced above. The complexity is increased with respect to AT&T and Ameritech, where the agreement was structured through arbitration. This fact was recently recognized by Mr. Samuel S. McClerren of the Illinois Commerce Commission staff, who pointed out that it will take longer to consummate an agreement resulting from arbitration.<sup>15</sup>

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<sup>15</sup> See Appendix P, Rebuttal Testimony of Samuel S. McClerren, ICC Docket No. 96-0404.

27) As stated above, there is a fundamental difference between the appearance of competitors in the market, and the market discipline provided by customers actually exercising choices between competitors. In terms of determining an appropriate basis on which to judge the competitiveness of a telecommunications market, the Commission would be well served to rely upon its experience and well earned skepticism when evaluating evidence submitted by Ameritech, which reveals --at most-- the scattered presence of competitors, as opposed to effective competition in its local exchange market.<sup>16</sup>

28) Ameritech does not truly address the level of effective competition in the Michigan local exchange marketplace in its Submission of Information. Instead, Ameritech points to areas where competition *could* exist (such as revenues exposed to competition) and further points to entities which *could* eventually provide an alternative (the number of certified carriers in Michigan, those who have stated their intention to provide local exchange service, and those having recently entered into interconnection agreements). Ameritech suggests broadly that "[s]ince divestiture, there has been increasing competitive entry into the telecommunications marketplace in Michigan" and that "[b]ecause of Michigan' progressive policies toward competition, that Michigan is one of the most active jurisdictions in the country in terms of local exchange entry." Other than these statements, I found very little in

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<sup>16</sup> See the testimony of AT&T witness John Puljung for a synopsis of Ameritech's past assertions regarding the pace of competitive entry.

Ameritech's information regarding the availability of alternatives or the effectiveness of competition in the local market.

- 29) An examination of the available data, limited as it is, as well as Ameritech's own assertions in this case that all the systems necessary for facilities based competition to develop are not yet operational,<sup>17</sup> make it clear that effective competition of the type envisioned by the Michigan Act and the MPSC does not currently exist in Michigan. It is equally clear that any level of competition that may exist is severely limited in terms of both geographic scope and size, and its effectiveness as a market regulator is insignificant. In addition, as discussed more thoroughly later in my affidavit and the testimony of other AT&T affiant, there remain substantial obstacles to the competitors upon whose shoulders the yoke of forging competition rests and hence, the prospect of rapidly accelerated competitive entry seems bleak.
- 30) My first impression is that Ameritech's data are entirely insufficient to show the existence of effective competition in terms of any convincing demonstration. Even if the information provided by Ameritech is the most comprehensive information that it has available, that information suggests only that competition in Ameritech's territory is nascent and relatively inconsequential.

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<sup>17</sup> See the Testimony of AT&T witnesses Connolly & Pfau regarding Ameritech's operational interfaces and their accompanying deficiencies.

**MEASUREMENT OF COMPETITION IN THE MICHIGAN LOCAL  
EXCHANGE MARKET**

- 31) Although the data is sparse, it is nevertheless telling. For example, even given the most optimistic assumptions, it seems reasonable to estimate that roughly 20,000 to 50,000 local access lines in Ameritech's Michigan' service territory are currently served by a non-Ameritech carrier. This is a generous assumption, given the fact that Ameritech found only 20,000 CLEC access lines, but it will suffice for my analysis.
- 32) Given the limited data provided by Ameritech , I have attempted to establish a number of ranges within which the actual number of competitively provisioned access lines might fall. Using an aggressive estimation that I believe will overstate such a figure by a substantial degree, I have attempted to identify both the lower and upper bounds of a range. For example, to determine the lower reaches of the range, it can be assumed that the only customers truly served by such a competitive service are those served via an Ameritech unbundled loop. Hence, the bottom of our range would be approximately 11,774 customers.
- 33) By then assuming, even more aggressively, that all reported customer disconnects, all ported numbers, all end office integration trunks and all unbundled loops requested of Ameritech by competitors were associated with individual customer's leaving the Ameritech network, we could establish the upper limit of our range. Summing these

figures as provided by Ameritech would give us an upper limit of approximately 47,000 access lines.

34) The difference between this number and the number of customers which Ameritech serves is staggering. Ameritech states that it currently serves 4,972,505 access lines in Michigan (comprised of both residential and business accounts). Even at the outer limits of the range I have computed (47,000 access lines), the number of customers exercising a choice between suppliers would amount to 0.9% ( $47,000/4,972,505$ ). Moreover, to put this in the proper context it would reflect penetration by competitors over roughly the past 5 to seven years since competitive entry to the local exchange was authorized by the Michigan Legislature.

35) It is possible that some competitors are serving customers exclusively over their own facilities, making it possible to miss those customers in my estimate range. There are ways, however, to estimate a range that would include those competitively provisioned access lines as well. I understand that local exchange service is provisioned via the combination of a local connection (a loop of some type) and a switching function (local switching of some type). Hence, to establish an absolute maximum number of customers that could be served by a facilities based competitor, one could determine the total capacity of those competitors' least fungible component, either loops or switching. In this way, even if one could not accurately determine the number of access lines those competitors were *actually* serving, one could estimate

the maximum number of access lines that they *could* serve in the near term. Because these carriers theoretically could use the loop facilities of Ameritech without capacity constraints, one would base the upper limit estimates on the combined switching capacity of the competitors. While this method will in no way provide us with information regarding the number of customers who have actually exercised a competitive option, it may provide insight as to a reasonable upper limit of customers that *could* be served by competitors under the most favorable of circumstances.

36) To estimate this upper limit, I looked again to the information provided by Ameritech.

Ameritech, currently owns and operates 442 switches in Michigan. It is with these switches that Ameritech serves its 4,972,505 customers (approximately 11,250 access lines per switch). In contrast, to my knowledge CLECs have a combined total of four local exchange switches in operation in Michigan. In other words, assuming that Ameritech's competitors are today, on average, utilizing the capacity of their switches in a manner comparable to that of Ameritech (approximately 11,250 access lines per switch), they would most likely serve only some 45,000 access lines ( $11,250 \times 4$ ) or less than 00.90% of Ameritech's existing customer base.

37) Rather than use potential customers when analyzing the level of competition in a marketplace, a more appropriate method for the Commission would be to measure the extent to which customers have actually *exercised* their economic option to pursue other alternatives. While I would agree that the available capacity of competitors is

**MPSC CASE NO. U-11104**  
**AFFIDAVIT OF MICHAEL STARKEY**

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one of many measures that can suggest that competition is possible, I would suggest that a more accurate determination of actual competition must be made with respect to how customers have exercised the ability to move between suppliers. An analysis only of available capacity could hide many obstacles that still hinder effective market entry.

38) For example, a brief examination of the actual experiences and operations of competing carriers in Michigan should provide the Commission with a better understanding of why, regardless of their capacity, competitors do not today -- and in fact will not likely in the near term -- offer any significant scope of effective competition to an incumbent monopoly provider like Ameritech. The switch-based carriers mentioned above - Brooks, MFS, MCI and TCG -- currently operate only in the Detroit and Grand Rapids LATAs and serve primarily the concentrated business centers. According to affidavits filed by Dr. Robert Harris and David Teece in Ameritech Michigan's FCC filing for Section 271 Inter-LATA authority, it appears that Brooks connects directly to approximately 249 buildings (240 in Grand Rapids and 9 in Detroit), MFS connects directly to only about 102 buildings; similarly TCG connects directly only to approximately 25 buildings, and MCI Metro connects directly to approximately 20 buildings.<sup>18</sup> Though we have no idea as to how many of the customers within such buildings may actually receive local service from these

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<sup>18</sup> Joint Affidavit of Dr. Robert Harris and David Teece, on behalf of Ameritech Michigan, Vol. 3.3, CC Docket No. 97-1.



carriers, the limited number of buildings served reflects the inadequacy of the carriers ability to influence Ameritech's market behavior. Even if these carriers have expanded their networks since the FCC filing, which is unlikely, the total service that they provide cannot constitute more than a de minimis portion of the market's potential customers, and appears to leave the residential market almost completely untapped.

#### **AMERITECH'S CONTROL OF ESSENTIAL INPUTS**

- 39) The experience of Brooks as explained above may well serve as one of the starkest examples of why competition will likely develop slowly. It reminds us that the control Ameritech exercises over the essential facilities and services its competitors require to compete in the market can significantly hinder or retard competitive entry. These facilities include interconnection, unbundled network elements, and/or resale capacity. So, when we look to the market for the presence of competition and we find very little, we must look to the essential inputs ("noncompetitive inputs") which Ameritech provides to understand its absence.
- 40) The Commission must remember that Ameritech establishes the charges and processes for noncompetitive inputs which affect the level of competition in the market. Consequently, the Commission must look not only to the current level of competition in the marketplace, but when it has completed that analysis and found

that very little competition exists, it must then ask itself "why hasn't competition developed more quickly and comprehensively?" In answering that question, the Commission should look squarely to the actions of Ameritech and to the rates, terms, and conditions through which it provides its competitors with essential inputs.

41) Earlier I spoke about the progressive nature with which the Michigan Commission has addressed local exchange competition over the last few years. Some of the most progressive policies have been aimed at limiting Ameritech's ability to exercise unchecked control over the inputs required by its competitors. Unfortunately, the Brooks experience suggests that some of those rules have either been ignored, or that they are insufficient to ensure that effective competition can take a firm hold in the marketplace.

#### **PRESENCE OF CERTIFICATED CARRIERS**

42) On November 14, 1996, AT&T was certified to provide basic local exchange service (resale and facilities-based) in all exchanges served by Ameritech Michigan and GTE. (See U-10845, U-11052 and U-11169). Although the applications of a number of other telecommunications providers have been granted, only five of those providers

have even filed local exchange tariffs necessary to offer service to customers: MCI Metro; Brooks Fiber; MFS; USN and TCG.<sup>19</sup>

43) The mere certification of carriers to provide local exchange service by itself is not a sufficient measure of the presence of effective competition in the local exchange.

While certification is a necessary first step to entering the local exchange marketplace, suggesting that the presence of certificated carriers is a reliable proxy by which the effective level of competition in the market can be measured is wholly inaccurate.

44) A certificate merely grants a carrier the legal ability to provide certain services. In Michigan, carriers have had the ability to become certificated for the provision of local service since at least 1989, when the first non-monopoly carrier was certificated to provide local services. Still, we find ourselves today without any level of effective competition when confronted with the entrenched monopoly character of a carrier like Ameritech. The prospect for developing an effectively competitive market is driven. This entrenchment is epitomized by Ameritech's position with respect to franchise rights, where Ameritech enjoys a state-granted franchise which it believes entitles it to avoid local municipal franchise obligations. This is an advantage enjoyed by no new entrant attempting to break the century-old monopoly of Ameritech Michigan.

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<sup>19</sup> See Appendix M, "Status of CLEC Applications in the Ameritech Region." Note that USN, which is listed above, is purely a reseller of services, and only recently reached an interconnection agreement with Ameritech, which at the time of this writing had not been approved by the Commission.

**RELIANCE ON INTERCONNECTION AGREEMENTS**

- 45) Ameritech has cited a host of interconnection agreements that it has entered into as support for its contention that competition is flourishing in the local exchange in Michigan. It must be remembered, however, that these agreements are only on paper, and until the terms of those agreements are fully implemented in the market, they are no different than licenses to provide service or tariffs.
- 46) AT&T is also aware that Ameritech and Brooks Fiber reached an Interconnection Agreement on September 12, 1996. That Agreement, however, does not address, in a meaningful way, a number of critical interconnection terms and conditions. For instance, the agreement addresses only unbundled loops -- not unbundled elements or wholesale service rates. Moreover, the agreement does not address Ameritech's obligation to provide parity in service performance. The magnitude of this deficiency is becoming apparent as Brooks attempts to extend itself into the market.
- 47) Similarly, Ameritech negotiated an interconnection agreement with USN for resale services only. That agreement, however generally includes only wholesale service discounts which are contingent upon volume commitments. It does not address, in any way, interconnection or the provisioning of unbundled network elements.

**THE SIGNIFICANCE OF RESALE**

- 48) In contrast to an entry strategy based upon purchasing Ameritech unbundled loops,

resale, or the presence of resellers in the marketplace, by itself, is not an effective force in disciplining the market. While resale is a critical component for the development of what will eventually become a competitive market, the FCC in its First Report and Order in CC Docket No. 96-98 ("FCC Order" or "Local Competition Order") appropriately recognized that three concurrent entry strategies will be required to sufficiently discipline the market: (1) the construction of new networks, (2) the use of unbundled elements of the incumbent's network, and (3) resale. [FCC Order, paragraph 12] The FCC reiterates that each strategy is an integral part of a competitive market, and to favor any one strategy would be inconsistent with the Act and would likely produce undesirable results:

"Moreover, given the likelihood that entrants will combine or alter entry strategies over time, an attempt to indicate such a preference in our section 251 rules may have unintended and undesirable results. Rather, our obligation in this proceeding is to establish rules that will ensure that all pro-competitive entry strategies may be explored." [Id.]

- 49) Non-facilities-based firms, such as resellers, by themselves cannot be an effective comprehensive restraint on Ameritech's behavior. As long as a reseller can obtain capacity only from Ameritech, it remains in many respects hostage to Ameritech. Such a reseller would remain hostage not only to the prices it paid, but to the quality of service it received, to the processes for ordering and provisioning that it was offered, and to the services it could provide its customers. In contrast, the presence of other facilities based competitors would (1) constitute an alternative to Ameritech's service and (2) begin to provide even resellers with additional suppliers and would hence, over time, significantly diminish the market power Ameritech could exercise over its retail customers, its facilities based competitors, as well as its resale customers.
- 50) Regardless of its effectiveness in disciplining the market as a stand alone option, it is unclear whether resale carriers have substantially penetrated the Michigan market. In its November 12, 1996 Submission of Information herein, Ameritech points to the existence of several telemanagement firms as support for its contention that resale competition exists on a large scale in Michigan. As with the data supplied on other sources of competition in Michigan, the firms that Ameritech references do not appear to constitute the type of resale market that the FCC envisioned in its First Report and Order

51) Without more accurate information, we are left to speculate. However, there are a few things we know about the resale market in Michigan. First, it is only beginning to develop. Telemanagement firms are the only resellers that Ameritech can cite to in Michigan, and they are not wholesale purchases of Ameritech services under Ameritech's resale tariffs. In fact, Ameritech cannot point out any true reseller under the terms of the Act in Michigan at the present time. It is my position that the telemanagement firms referenced by Ameritech are not resellers as contemplated under the checklist.

52) Further, many of the interfaces which Ameritech uses to support its resellers have yet to be tested, yet alone fully implemented, as some were not even scheduled for completion until January 1, 1997.<sup>20</sup> Also, information provided by Ameritech suggests that its electronic customer service record ("CSR") interface, used by resellers to request information about customers who have chosen to use their resale service, processed only 2,460 requests during all of 1996 across the entire Ameritech region. Based upon these facts, it seems unlikely that resellers have yet to make any impact in regard to the Ameritech customer base.

53) In addition, Ameritech has refused to provide notice of changes to services and new offerings to resellers until it announces such changes to the public or provides notices of

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<sup>20</sup> It is important to note that until those interfaces have been developed, implemented and tested, and until resellers have had time to develop some level of expertise and comfort with them, given Ameritech's past record with respect to meeting its competitors needs, competitors will likely remain unwilling to support large numbers of customers on a resale basis.

such changes in tariff sheets. This proposal is plainly insufficient to permit resellers to make any changes to their operational support services and to prepare to offer those changed or new services to their customers. Ameritech should be required to provide notice of changes or new services at the same time that Ameritech or its affiliates notifies its business unit and sale personnel that such changes or new services will be offered. Such notification is undoubtedly used to permit Ameritech personnel to ensure that Ameritech's operations support services interfaces are sufficiently prepared to permit ordering, provisioning, and maintenance of the new or altered services. Notification to AT&T and other resellers at the time of notification to Ameritech's business unit and OSS personnel will provide additional time to AT&T and the resellers so they can provide service to their customers on a nondiscriminatory basis with Ameritech.

**GENERAL ASSESSMENT OF AMERITECH'S SUBMISSIONS OF**  
**INFORMATION**

- 54) The level of competition provided through facilities placement, resale or unbundled elements in Michigan today are non-existent or very limited and obstacles remain for the future. Ameritech has not provided any other information to support its claim that competition is thriving in the Michigan local exchange marketplace. Ameritech has



provided what it believes to be further evidence of a thriving competitive local exchange marketplace within its Submission of Information in this case.

55) This information should be viewed very skeptically and in the context of what it really is: a showing that competitors have stated an intention, and perhaps gathered a subset of the legal documentation required, to enter the local exchange market. It provides no evidence of the current success or progress of those competitors in actually entering the market and substantially effecting its non-competitive nature or whether it is likely they will become effective given current obstacles. The areas cited by Ameritech in an effort to support its claim that a competitive market exists ultimately fail to an extreme degree.

**THE POTENTIAL FOR EFFECTIVE COMPETITION FROM IXC, CATV  
AND WIRELESS CARRIERS**

56) In my opinion, CATV and wireless cannot constitute effective competition for Ameritech, at least not for the foreseeable future. Ameritech states that the CATV industry is "planning" to expand into telecommunications service on a short-term basis, and that wireless carriers "have an interest" in the provision of local exchange service beyond traditional mobile applications. For a number of reasons, neither cable or wireless will have the ability to compete effectively against Ameritech in the local exchange in Michigan until a number of obstacles have been overcome.